

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
CAROL McNEELY, SHILPA VLK,	:	
GEORGE K. BERNHARD, and DEBORAH	:	
JOYCE,	:	
	:	
on behalf of themselves and all others	:	
similarly situated,	:	
	:	
and	:	
	:	
DAVID T. RUDZIEWICZ, FREDERICK	:	
DEMAIO, DONNA R. KOBIELSKI,	:	
DONNA MOLTA, NADINE JOY,	:	
SAMUEL PENTA, and ROLAND HOGG,	:	
	:	
Opt-In Plaintiffs,	:	1:18-CV-00885-PAC
	:	
-against-	:	Electronically Filed
	:	
METROPOLITAN LIFE INSURANCE	:	
COMPANY, METROPOLITAN LIFE	:	
RETIREMENT PLAN FOR UNITED STATES	:	
EMPLOYEES, SAVINGS AND INVESTMENT	:	
PLAN FOR EMPLOYEES OF METROPOLITAN	:	
LIFE AND PARTICIPATING AFFILIATES,	:	
METLIFE OPTIONS & CHOICES PLAN, and	:	
WELFARE BENEFITS PLAN FOR EMPLOYEES:	:	
OF METROPOLITAN LIFE AND	:	
PARTICIPATING AFFILIATES,	:	
	:	
Defendants.	:	
-----X	:	

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT,  
CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS AND  
SETTLEMENT COLLECTIVE FOR SETTLEMENT PURPOSES ONLY,  
APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL, AND  
APPROVAL OF FORMS AND METHOD OF PROVIDING NOTICE  
OF THE SETTLEMENT

Plaintiffs, by their undersigned counsel, ask the Court to preliminarily approve the  
settlement of this action, conditionally certify the settlement class and settlement collective

defined in the Joint Stipulation of Settlement and Release (“Settlement Agreement”) for settlement purposes only, conditionally appoint the four lawyers who have been representing Plaintiffs as Class Counsel, and approve the proposed notices of the Settlement and method of providing notice to Class Members. The Settlement, if finally approved, will resolve the claims of 11 Plaintiffs and approximately 110 additional Class Members. The Defendants support this motion.<sup>1</sup>

Accompanying the motion are the following documents:

Settlement Agreement	Exhibit A
Mailed Notice	Exhibit B
Reminder Notice	Exhibit C
Proposed Preliminary Approval Order	Exhibit D
Allocation Formula	Exhibit E
Blow-Up Notice (under seal)	Exhibit F <sup>2</sup>

An accompanying memorandum explains the legal and factual bases for approving the motion. Factual support for the memorandum is contained in:

Declaration of Michael Lieder	Exhibit G
Declaration of Stacey Gray	Exhibit H

All defined terms contained herein shall have the same meanings as set forth in the Settlement Agreement executed by the Parties and filed with this Court.

Plaintiffs ask the Court to:

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<sup>1</sup> Capitalized terms in this motion are defined in the Settlement Agreement.

<sup>2</sup> Exhibit F is submitted under seal. The reasons for doing so are contained in that Exhibit.

1. Preliminarily approve the settlement memorialized in the Settlement Agreement between the Parties, which was submitted to this Court as Exhibit A to the Motion.
2. Conclude that the Settlement Agreement is within the range of possible settlement approval, such that notice to the Class is appropriate.
3. Find that the Settlement Agreement is the result of extensive, arms' length negotiations by counsel well-versed in the prosecution and defense of employment class and collective actions.
4. For settlement purposes only, and with no other effect on this Action, provisionally find that the proposed Class meets each of the requirements for certification of Federal Rule of Civil Procedure 23.
5. For settlement purposes only, and with no other effect on this Action, find that the proposed Collective meets the requirements for conditional certification under 29 U.S.C. § 216(b).
6. For settlement purposes only, and with no other effect on this Action, provisionally find that Cyrus Mehri, Michael Lieder, and Lauren Nussbaum of the firm of Mehri & Skalet PLLC and Stacey Gray of the firm of Stacey Gray PC are appointed as Class Counsel for the Class and Collective.
7. Approve the proposed Original Notice and Reminder Notice.
8. Approve the methods of providing the Original Notice and Reminder Notice to Plaintiffs and Class Members.
9. Adopt the settlement approval process set forth in the Settlement Agreement.
10. Order that nothing in Plaintiffs' motion, the attached documents including the Settlement Agreement, or the Preliminary Approval Order shall constitute, be construed to be, or

be admissible in any proceeding as evidence: (a) that any group of similarly situated or other employees exists to maintain a collective action under the FLSA, or a class action under Rule 23 of the Federal Rules of Civil Procedure or comparable state laws or rules, (b) that any party has prevailed in this case, or (c) that the Defendants have engaged or not engaged in any wrongdoing. Further order that, in the event that the Settlement Effective Date does not occur, the Settlement Agreement and the Preliminary Approval Order shall be deemed null and void and shall have no effect whatsoever with the sole exception of those provisions of the Settlement Agreement pertaining to its effect in the event that the Settlement Effective Date does not occur for any reason. The Settlement Agreement, however, may be admitted into evidence or otherwise used to enforce any of the terms of the Settlement Agreement if the Settlement Effective Date does occur.

Dated: October 7, 2019

Respectfully submitted,

/s/ Stacey M. Gray

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/s/ Michael D. Lieder

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**Certificate of Service**

I, Michael D. Lieder, hereby certify that on October 7 2019, I caused the foregoing, along with Exs. A-E thereto, to be served via the Court's CM/ECF system upon all counsel of record. I further certify that on October 7, 2019, I caused Ex. F to be sent to the Court via Federal Express on a CD for filing under seal. Next, I certify that, per agreement with opposing counsel, Ex. F will be served on Defendants via paper copy rather than on a CD. Finally, I certify that I intend to have two courtesy copies of the papers delivered to the Court by Federal Express for delivery on Wednesday, October 9.

/s/ Michael D. Lieder  
Michael D. Lieder